IN THE HIGH COURT OF JUDICATURE AT BOMBAY

IN INSOLVENCY

PETITION NO. 25 OF 2007.

Re : Kishinchand S.Loungani . . . . . Debtor.

Ex-parte :
Navin M. Valecha . . . . . Petitioning Creditor.

- - - - - - - - -

Mr. R. D. Dave, Advocate i/by M/s. N.N.Vaishnawa & Co., Advocates for the Petitioning Creditor.

CORAM : A.M.KHANWILKAR J.
NOVEMBER 26, 2007.

P. C.

1. The present Petition is founded on the decree passed by the Court against debtor on 13th April 2005 in Summons for Judgement No. 253 of 2006 dated 23rd June 2006 was issued, which was duly served on the debtor on 29th June 2006.

The Debtor took out a Notice of Motion bearing No. 134 of 2006 for setting aside the aforesaid Insolvency Notice No.N-114 of 2006, in which conditional Order was passed by His Lordship Dr. Shri. Justice D. Y. Chandrachud J. on 20th December 2006. The Debtor did not comply with the order dated 20-12-2006 and has committed default in payment of 2nd Instalment as per clause (ii) (a) of the said order dated 20th December 2006. Inspite of service, debtor failed to pay the decretal amount. In that sense, act of insolvency was completed on 7th February 2007.

As the debtor failed to pay the amount or offer any explanation for non-payment, Petitioning Creditor has had no option but to take out the present action, which has been filed on 13th March, 2007. The debtor has been duly served on 27th April, 2007 in the present action, Inspite of such service, none appears for the debtor. No reply has been filed. Inspite of such service, none appears for the debtor. As no explanation has been offered on behalf of the debtors, Petition ought to succeed in terms of prayer clauses (a) and (b).

(a) That an order of adjudicating the Debtor as insolvent may be passed and he may be adjudicated insolvent.

(b) Costs of this Petition be provided for.

. Ordered accordingly.

A. M. KHANWILKAR, J.